

## Federal Emergency Management Agency, DHS

## § 12.7

(2) Assemble and maintain the reports, records, and other papers of any advisory committee during its existence.

(b) The name of the Advisory Committee Management Officer designated in accordance with this part shall be provided to the Secretariat.

[45 FR 64180, Sept. 29, 1980, as amended at 47 FR 13149, Mar. 29, 1982; 48 FR 44543, Sept. 29, 1983; 49 FR 33879, Aug. 27, 1984; 74 FR 15338, Apr. 3, 2009]

### § 12.6 Establishment of advisory committees.

(a) No advisory committee shall be established under this part unless such establishment is:

(1) Specifically authorized by statute or the President of the United States; or

(2) Determined as a matter of formal record by the Administrator after consultation with the Secretariat, with timely notice published in the FEDERAL REGISTER as a matter of the public interest, in connection with the performance of duties imposed on the agency by law.

(b) The determination required by paragraph (a)(2) of this section shall:

(1) Contain a clearly defined purpose for the advisory committee;

(2) Require the membership of the advisory committee to be fairly balanced in terms of the points of view represented in the functions performed by the advisory committee;

(3) Contain appropriate provisions to assure that the advice and recommendations of the advisory committee will not be inappropriately influenced by the appointing authority or by any special interest, but will instead be the result of the advisory committee's independent judgment;

(4) Contain provisions dealing with the date for submission of reports (if any), the duration of the advisory committee, and the publication of reports and other materials, to the extent that the agency determines the provisions of § 12.16 of this part to be inadequate; and

(5) Contain provisions which will assure that the advisory committee will have adequate staff (either supplied by the Agency or employed by it), will be provided adequate quarters, and will

have funds available to meet its other necessary expenses.

(c) Consultation with the Secretariat may be in the form of a letter from the Agency describing the nature and purpose of the proposed advisory committee, including an explanation of why the functions of the proposed committee could not be performed by FEMA or by an existing committee. The letter should describe the Agency's plan to attain balanced membership on the proposed committee, as prescribed in paragraph (b)(2) of this section. If the Secretariat is satisfied that the establishment of the advisory committee will be in accord with the Act, the Agency shall certify in writing that creation of the advisory committee is in the public interest.

(d) Unless otherwise specifically provided by statute or Presidential directive, advisory committees shall be utilized solely for advisory functions.

### § 12.7 Charter.

(a) No advisory committee established under this part shall meet or take any action until an advisory committee charter has been filed with the Agency and the standing Committee or Committees of the Senate and House of Representatives having legislative jurisdiction over the FEMA component to which the advisory committee renders its advice.

(b) The charter required by paragraph (a) of this section shall contain at least the following information:

(1) The committee's official designations;

(2) The committee's objectives and the scope of its activities;

(3) The period of time necessary for the committee to carry out its purposes;

(4) The FEMA component and official to whom the committee reports;

(5) The FEMA component responsible for providing the necessary support for the committee;

(6) A description of the duties for which the committee is responsible, and, if such duties are not solely advisory, specification of the authority for such functions;

(7) The estimated annual operating cost in dollars and man years for the committee;

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(8) The estimated number in frequency of committee meetings;

(9) The committee's termination date, if less than 2 years from the date of committee's establishment; and

(10) The date the charter is filed.

(c) A copy of the charter required by paragraph (a) of this section shall also be furnished at the time of filing to the Library of Congress, Exchange and Gift Division, Federal Advisory Committee, Washington, DC 20540.

(d) An amendment to the charter may be filed whenever there is a substantial change regarding matters stated in the original charter.

(e) The requirements of this section shall also apply to committees utilized as advisory committees, even though not expressly established for that purpose.

### § 12.8 Meetings.

(a) Advisory committees established under this part shall not hold any meetings, nor shall they render any advice, except at the call of, or with the advice and approval of, the Federal Officer or employee designated in accordance with § 12.10 of this part, who shall also approve the agenda of such meetings. Timely notice of each meeting shall be provided in accordance with § 12.11 of this part.

(b) The agenda required by paragraph (a) of this section shall list the matters to be considered at the meeting. It shall also indicate when any part of the meeting will concern matters within the exceptions of the (Government) Sunshine Act, 5 U.S.C. 552b, and § 12.9 of this part.

(c) Subject to the provisions of § 12.9 of this part, each advisory committee meeting shall be open to the public. Meetings which are completely or partly open to the public shall be held at reasonable times and at such a place that is reasonably accessible to the public. The size of the meeting room should be determined by such factors as the size of the committee, the number of members of the public who could reasonably be expected to attend, the number of persons who attended similar meetings in the past, and the resource facilities available.

(d) Any member of the public shall be permitted to file a written statement

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with the committee related to any meeting that is completely or partly open to the public. Interested persons may also be permitted by the committee chairman to speak at such meetings in accordance with the procedures established by the committee.

### § 12.9 Closed meetings.

(a) The requirements of § 12.8 (c) and (d) of this part that meetings shall be open to the public and that the public shall be afforded an opportunity to participate in such meetings shall not apply to any advisory committee meeting which the President or the Administrator determines is concerned with matters listed in 5 U.S.C. 552b(c).

(b) An advisory committee which seeks to have all or part of its meetings closed shall notify the Administrator before the scheduled date of the meeting. The notification shall be in writing and shall specify the reasons why any part of the meeting should be closed.

(c) A request that the meeting be closed will be granted upon determination by the Administrator that the request is in accordance with the policies of this part. The Administrator's determination will be in writing and will state the specific reasons for closing all or part of the meeting. The determination will be made available to the public upon request.

(d) The Administrator may delegate responsibility for making the determination required by paragraph (c) of this section. In any case where the determination to close the meeting is made by the Administrator's delegate, the determination will be reviewed by the Chief Counsel.

(e) When a meeting is closed to the public, the advisory committee shall issue a report, at least annually, setting forth a summary of its activities in such meetings, addressing those related matters as would be informative to the public and consistent with the policy of 5 U.S.C. 552b(c) and of this part. Notice of the availability of such annual reports shall be published in accordance with § 12.11 of this part.